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7  
8 **BEFORE THE**  
**BOARD OF REGISTERED NURSING**  
9 **DEPARTMENT OF CONSUMER AFFAIRS**  
**STATE OF CALIFORNIA**

10 In the Matter of the Accusation Against:

Case No. **2010- 614**

11 **FRANK ROJAS**  
12 12558 Carmel Knolls Dr.  
Rancho Cucamonga, CA 91739  
13 Registered Nurse License No. RN 445401

**A C C U S A T I O N**

14 Respondent.

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16  
17 Complainant alleges:

18 **PARTIES**

19 1. Louise R. Bailey, M.Ed., RN (Complainant) brings this Accusation solely in her  
20 official capacity as the Interim Executive Officer of the Board of Registered Nursing, Department  
21 of Consumer Affairs.

22 2. On or about August 31, 1989, the Board of Registered Nursing issued Registered  
23 Nurse License Number RN 445401 to Frank Rojas (Respondent). The Registered Nurse License  
24 was in full force and effect at all times relevant to the charges brought herein and will expire on  
25 February 28, 2011, unless renewed.

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1 nursing care as required or failure to provide care or to exercise ordinary precaution in a single  
2 situation which the nurse knew, or should have known, could have jeopardized the client's health  
3 or life."

4 8. California Code of Regulations, title 16, section 1443, states:

5 "As used in Section 2761 of the code, 'incompetence' means the lack of possession of or the  
6 failure to exercise that degree of learning, skill, care and experience ordinarily possessed and  
7 exercised by a competent registered nurse as described in Section 1443.5."

8 9. California Code of Regulations, title 16, section 1443.5 states:

9 "A registered nurse shall be considered to be competent when he/she consistently  
10 demonstrates the ability to transfer scientific knowledge from social, biological and physical  
11 sciences in applying the nursing process, as follows:

12 . . . .

13 "(2) Formulates a care plan, in collaboration with the client, which ensures that direct and  
14 indirect nursing care services provide for the client's safety, comfort, hygiene, and protection, and  
15 for disease prevention and restorative measures.

16  
17 "(6) Acts as the client's advocate, as circumstances require, by initiating action to improve  
18 health care or to change decisions or activities which are against the interests or wishes of the  
19 client, and by giving the client the opportunity to make informed decisions about health care  
20 before it is provided."

21 10. California Code of Regulations, title 16, section 1444, states:

22 "A conviction or act shall be considered to be substantially related to the qualifications,  
23 functions or duties of a registered nurse if to a substantial degree it evidences the present or  
24 potential unfitness of a registered nurse to practice in a manner consistent with the public health,  
25 safety, or welfare. Such convictions or acts shall include but not be limited to the following:

26 "(a) Assaultive or abusive conduct including, but not limited to, those violations listed in  
27 subdivision (d) of Penal Code Section 11160. . . .

1 **COST RECOVERY**

2 11. Section 125.3 of the Code provides, in pertinent part, that the Board may request the  
3 administrative law judge to direct a licensee found to have committed a violation or violations of  
4 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and  
5 enforcement of the case.

6 **FIRST CAUSE FOR DISCIPLINE**

7 **(Assaultive or Abusive Conduct)**

8 12. Respondent has subjected his license to disciplinary action under section 2761,  
9 subdivision (a), in conjunction with California Code of Regulations, title 16, section 1444,  
10 subdivision (a), on the grounds of unprofessional conduct, in that Respondent engaged in  
11 assaultive or abusive conduct while on duty as a registered nurse in the emergency room at Kaiser  
12 Permanente, Los Angeles Medical Center, California (KP) as follows:

13 a. On or about April 18, 2006, at approximately 1:00 a.m., a KP Security Staff  
14 discovered a 16-year old male patient, Robert F., in an unauthorized area. Their observations of  
15 his behavior caused them to opine that he may have been suffering from some type of mental  
16 health problem. They brought him to the emergency department where the Triage Nurse  
17 determined that the patient Robert F. required a psychiatric evaluation and was subsequently  
18 seated on a chair at the registration desk. Patient Robert F. was non-responsive to hospital staff  
19 and appeared confused and disoriented.

20 b. Hospital staff nurse procured a wheelchair to transport patient Robert F. to a  
21 patient room. Patient Robert F.'s behavior continued to be described as non-resistant, "altered",  
22 non-violent, and quietly sitting on a chair at the time. Suddenly, Respondent un-expectantly left  
23 his chair in a rapid manner and approached patient Robert F. Respondent then grabbed patient  
24 Robert F.'s chair and pulled it out from underneath him. Respondent's actions caused Francis to  
25 fall from his seated position onto the tile floor. Respondent then proceeded to grab patient Robert  
26 F. by the collar and dragged him on the tile floor an estimated seven to fifteen feet towards a  
27 patient room. Other KP staff then interceded by assisting patient Robert F. to his feet and into an  
28 available room.

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2 **SECOND CAUSE FOR DISCIPLINE**

3 **(Gross Negligence)**

4 13. Respondent has subjected his license to disciplinary action under section 2761 (a)(1),  
5 on the grounds of unprofessional conduct, in conjunction with California Code of Regulations,  
6 title 16, section 1442, in that Respondent was grossly negligent with respect to the care rendered  
7 to patient Robert F. Respondent's act of intentionally removing the chair out from underneath  
8 patient Robert F. in a non-provoked manner, causing him to fall to the floor and unnecessarily  
9 grasping patient Robert F. by his clothing and dragging him across the floor for some distance,  
10 constituted an extreme departure from the standard of care which, under similar circumstances,  
11 would have ordinarily been exercised by a competent registered nurse. In this situation,  
12 Respondent failed to remain composed and patiently providing directions in a calm manner to  
13 gain compliance from a suspected non-violent mentally ill patient. Respondent failed to exercise  
14 ordinary precaution which he knew, or should have know, could have jeopardized the patient's  
15 health or life.

16 **THIRD CAUSE FOR DISCIPLINE**

17 **(Incompetence)**

18 14. Respondent has subjected his license to disciplinary action under section 2761,  
19 subdivision (a)(1), on the grounds of unprofessional conduct, in conjunction with California Code  
20 of Regulations, title 16, sections 1443 and 1443.5, in that Respondent was incompetent in  
21 applying the nursing process as follows:

22 a. Respondent failed to formulate a care plan to ensure that direct and indirect  
23 nursing care services provided for the patient's safety, comfort and protection, as shown by  
24 Respondent's failure to provide for the patient's safety during the incident set forth in paragraph  
25 12, above.

26 b. Respondent failed to act as patient Robert F.'s advocate, as the circumstances  
27 required, in that Respondent committed assault and battery against patient Robert F., as set forth  
28 in paragraph 12, above.

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2 **FOURTH CAUSE FOR DISCIPLINE**

3 **(Failure to Comply with the Code)**

4 15. Respondent has submitted his license to disciplinary action under section 2761,  
5 subdivision (d), in that he violated 2761, subdivision (a)(1), and California Code of Regulations,  
6 title 16, sections 1442, 1443, 1443.5, and 1444, as set forth in paragraphs 12 through 14, above.

7 **FIFTH CAUSE FOR DISCIPLINE**

8 **(Unprofessional Conduct)**

9 16. Respondent has subjected his license to disciplinary action under section 2761,  
10 subdivision (a), in that he committed acts which constitute unprofessional conduct, as set forth in  
11 paragraphs 12 through 15, above.

12 **PRAYER**

13 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,  
14 and that following the hearing, the Board of Registered Nursing issue a decision:

15 1. Revoking or suspending Registered Nurse License Number RN 445401, issued to  
16 Frank Rojas.

17 2. Ordering Frank Jr. Rojas to pay the Board of Registered Nursing the reasonable costs  
18 of the investigation and enforcement of this case, pursuant to Business and Professions Code  
19 section 125.3;

20 3. Taking such other and further action as deemed necessary and proper.

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22  
23 DATED: 5/27/10

*Louise R. Bailey*  
LOUISE R. BAILEY, M.ED., RN  
Interim Executive Officer  
Board of Registered Nursing  
Department of Consumer Affairs  
State of California  
Complainant